

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ATS PRODUCTS, INC.,
Plaintiff,

v.

CHAMPION FIBERGLASS, INC., *et al.*,
Defendants.

Case No. [13-cv-02403-SI](#)

**ORDER DIRECTING FURTHER
BRIEFING REGARDING PLAINTIFF'S
MOTION FOR A TEMPORARY
RESTRAINING ORDER AND
RESETTING HEARING TO
SEPTEMBER 24, 2015 AT 10:00 AM**

Plaintiff's motion for a temporary restraining order is scheduled for a hearing on September 18, 2015. The Court has reviewed all of the briefing and materials submitted by the parties regarding the motion. Defendants contend, *inter alia*, that there are significant differences between the CR1 and the ATS resin systems, including a different order of mixing the ingredients, different ratios for the initial mixture of formaldehyde and phenol, a different process for heating the ingredients, and a different methodology once the resorcinol has been added to the resole. Defendants have submitted the expert declaration of Theodore Dailey Jr. in support of their opposition. In his declaration, Mr. Dailey states his opinions about the specific differences between the CR1 and the ATS resin systems, as well as why those differences are significant. Dailey Decl. ¶¶ 12-13. Mr. Dailey also states his opinions regarding why the similarities between the CR1 and ATS resin systems (with regard to overall weight percentages of the four main ingredients) do not mean that there was a misappropriation of ATS trade secrets. *Id.* ¶ 14.

Plaintiff's reply asserts, *inter alia*, that the differences identified by defendants are immaterial because defendants have not satisfied their burden of proving independent development of the CR1 resin system. However, plaintiff's reply does not specifically address defendants' arguments about the particular differences identified by Mr. Dailey, nor does plaintiff

1 respond to Mr. Dailey's opinions regarding why the similarities between the two resin systems do
2 not indicate misappropriation. The declaration filed by plaintiff's expert, Ravi Joshi, was filed in
3 connection with the motion and thus does not respond to any of the points made by Mr. Dailey.

4 The Court finds that supplementation of the record will assist the Court's analysis of the
5 issues presented by plaintiff's motion. Specifically, the Court directs plaintiff to file no later than
6 **noon on September 23, 2015**, an additional declaration from its expert, Mr. Joshi, responding to
7 the opinions set forth in Mr. Dailey's declaration at paragraphs 12-14.¹ The Court resets the
8 hearing from September 18, 2015 to **September 24, 2015 at 10:00 am**. Counsel should be
9 prepared to address at the hearing the significance of the similarities and differences between the
10 CR1 and ATS resin systems with regard to the particular trade secrets at issue.

11
12 **IT IS SO ORDERED.**

13
14 Dated: September 16, 2015



SUSAN ILLSTON
United States District Judge

15
16
17
18
19
20
21
22
23
24
25
26
27
28

¹ If Mr. Joshi wishes to respond to any other points made in Mr. Dailey's declaration, he may do so.